

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #9	CCRB Case #: 201907669	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 08/11/2019 11:50 AM	Location of Incident: § 87(2)(b)	Precinct: 110	18 Mo. SOL 2/11/2021	EO SOL 9/28/2021	
Date/Time CV Reported Fri, 08/16/2019 9:40 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/28/2019 10:52 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Latrice Mcfarland	13973	963641	110 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Justin Kellahe	28879	935100	110 PCT
2. POF Amy Minier	22954	962623	110 PCT
3. POM Stanley Leonard	23270	962547	110 PCT
4. POM Eric Miller	12990	942682	110 PCT
5. POF Heidy Cabrera	13009	956469	110 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Latrice Mcfarland	Force: Police Officer Latrice Mcfarland used physical force against § 87(2)(b)	§ 87(2)(b)
B.POF Latrice Mcfarland	Untruthful Stmt.: Police Officer Latrice Mcfarland provided a false official statement to the CCRB.	§ 87(2)(b)

Case Summary

On August 16, 2019, an anonymous member-of-service filed this complaint with IAB over the phone on behalf of § 87(2)(b) resulting in IAB log #19-31934. On August 28, 2019, the CCRB received the case. § 87(2)(b) was uncooperative with the investigation and did not provide a statement. No civilian statement was obtained for this complaint.

On August 11, 2019, at approximately 11:50 a.m., Police Officers Latrice McFarland, and other officers of the 110th Precinct, arrived at § 87(2)(b) in Queens after they received a call that § 87(2)(b) had assaulted an elderly man. § 87(2)(b) was arrested for § 87(2)(b) (Board Review 01, 02, and 03). After being placed in handcuffs, PO McFarland kicked § 87(2)(b) in the leg while he was seated on the ground (**Allegation A: Force- Physical Force, § 87(2)(g)**). PO McFarland made a false official statement to the CCRB (**Allegation B: Untruthful Statement- False official statement, § 87(2)(g)**).

BWC footage was obtained for this incident (Board Review 04).

Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

Allegation (A) Force: Police Officer Latrice McFarland used physical force against § 87(2)(b).

An anonymous male officer reported to IAB that § 87(2)(b) an emotionally disturbed male, was rear-cuffed and sitting on the floor when PO McFarland kicked § 87(2)(b) in the genitals after § 87(2)(b) swung his foot at her. The anonymous officer stated he was not pleased with PO McFarland's behavior toward § 87(2)(b) and wanted to report it (Board Review 07, 08).

At 1:40 (VLC timestamp) into PO Justin Kellaher's BWC footage, § 87(2)(b) is seen sitting on the ground with his hands in handcuffs behind his back (Board Review 05). § 87(2)(b) is surrounded by PO Amy Minier, PO McFarland, PO Kellaher, and PO Stanley Leonard. At 1:50, § 87(2)(b) appears to kick his leg towards PO McFarland. It is unclear whether he made contact with PO McFarland. Immediately prior to this, he had been sitting still, staring at PO McFarland while she stared back at him. § 87(2)(b) made no motions to stand or move from the position he was in. Immediately after kicking his leg at PO McFarland, PO McFarland kicks § 87(2)(b) in the area near his hip.

During her CCRB interview, PO McFarland stated that § 87(2)(b)'s kick struck her shin. Before being presented with the above BWC footage, PO McFarland stated that she kicked § 87(2)(b) on "top of his right foot" in order to bring his foot down and prevent him from kicking her again. PO McFarland stated that her foot made contact with the laces of § 87(2)(b)'s right sneaker. After being presented with Sgt. Kellaher's BWC video, PO McFarland acknowledged that the video appears to show that she kicked § 87(2)(b) in his upper leg, but that her memory of the incident was still that she kicked § 87(2)(b) in his right foot. PO McFarland stated that her reason for kicking § 87(2)(b) was the same, that she kicked § 87(2)(b) to prevent him from kicking her a second time. (Due to a technical error, PO McFarland's interview with the CCRB was not recorded.)

PO Leonard described § 87(2)(b)'s kick as a "stretch kick," and a "soft little kick." PO Leonard described PO McFarland's kick as "pretty excessive" and compared it to a "soccer kick." PO McFarland did not appear to be visibly injured after § 87(2)(b)'s kick, as the officer continued to keep standing around. At no point did PO Leonard believe that he or any other officers were in danger as a result of § 87(2)(b)'s actions.

Queens North Investigations investigated PO McFarland's actions and found that she improperly used unnecessary force against § 87(2)(b). On page 97 of the PDF file containing the case file (Board Review 06), the closing statement notes that after § 87(2)(b) was placed in handcuffs, officers placed him seated on the sidewalk with his back against a vehicle. PO McFarland stated during her formal interview for this investigation that, while waiting for the ambulance for § 87(2)(b), § 87(2)(b) rolled onto his hip and kicked her in the shin, causing pain, bruising, and swelling and in reaction, she kicked him in his leg area. PO McFarland was issued a Schedule "B" command discipline with a penalty of two vacation days.

TRI #§ 87(2)(b) reported by PO McFarland notes that § 87(2)(b) was an emotionally disturbed individual and was brought to § 87(2)(b) for psychiatric evaluation (Board Review 09).

Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. Under the Prohibitions section, the procedure notes that members of the service shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault (Board Review 10).

Patrol Guide Procedure 221-13 states that when a uniformed member of service reasonably believes that a person who is apparently mentally ill or emotionally disturbed, must be taken into protective custody because the person is conducting himself in a manner likely to result in a serious injury to himself or others: avoid any action which might agitate or provoke the EDP, if possible, and attempt to isolate and contain the EDP while maintaining a zone of safety until arrival of patrol supervisor and Emergency Service Unit personnel (Board Review 11).

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Untruthful Statements: Police Officer Latrice McFarland provided a false official statement to the CCRB.

PO McFarland provided a false official statement to the CCRB when she stated that she kicked § 87(2)(b) in order to bring his foot down and prevent him from kicking her again. After being presented with PO Kellaher's BWC video, PO McFarland acknowledged that the video appears to show that she kicked § 87(2)(b) in his upper leg and not in the foot as she originally stated, but her statement about why she kicked him remained the same.

On December 10, 2019, PO McFarland provided a statement to IAB during their

investigation of this incident. During that statement, as discussed above, she stated that she kicked § 87(2)(b) in reaction to him kicking her.

The statement she provided to the CCRB was provided months after the statement she provided to IAB. PO McFarland listened to her IAB statement prior to providing a statement to the CCRB and watched PO Kellaher's BWC footage, which supports PO McFarland's statement to IAB, that her kick was a retaliatory reaction to § 87(2)(b) kicking her; yet she still provided an alternative narrative to the CCRB, that she kicked § 87(2)(b) as a tactic to push his foot down and prevent him from kicking her again. § 87(2)(g)

Patrol Guide Procedure 203-08 notes that the intentional making of a false official statement is prohibited, and will be subject to disciplinary action, up to and including dismissal. Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances (Board Review 12).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- PO McFarland has been a member-of-service for four years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of December 10, 2019, the NYC Comptroller's Office has no record of a Notice of Claim being filed in regard to this complaint (Board Review 13).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 9

Investigator: _____
Signature Print Title & Name Date

Squad Leader: Monique West IM Monique West 07/19/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date